

Decision **PROPOSED DECISION OF ALJ KIM** (Mailed 3/21/2016)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Ross Stucker, Law Offices of Ross Stucker,

Complainant,

vs.

AT&T Communications of California, Inc.
(U5002C),

Defendant.

Case 15-08-015
(Filed August 19, 2015)

DECISION DISMISSING THE COMPLAINT FOR LACK OF PROSECUTION

Summary

This decision dismisses the complaint filed by Ross Stucker, Law Offices of Ross Stucker (Stucker) against AT&T Communications of California, Inc.¹ (AT&T) for lack of prosecution.

1. Discussion

Stucker filed this complaint (Complaint) against AT&T on August 19, 2015. The Complaint involves a billing dispute over certain unspecified allegations of overcharges and credits. A prehearing conference (PHC) was held on November 10, 2015. During the PHC, Stucker stated that

¹ The Complaint erroneously named Pacific Bell Telephone Company, dba AT&T California (U 1001 C) as AT&T Communications of California, Inc. However, Pacific Bell Telephone Company (Pacific Bell), dba AT&T California (U 1001 C) appeared and filed an Answer on September 15, 2015. Pacific Bell will be referred to hereafter as AT&T.

he had already gathered the disputed bills, although unorganized. AT&T indicated that it too had gathered and reviewed the bills from the general disputed timeframe. The assigned Administrative Law Judge advised Stucker to organize his gathered bills and immediately conduct any necessary discovery to specify the disputed charges and to further prosecute this matter.

At the PHC, the parties agreed as follows:

- 1) By December 1, 2015, Stucker will identify for each bill, beginning in September 2014, every disputed charge, and Stucker would thereafter confer with AT&T's counsel to offset all prior credits issued by AT&T to Stucker; and
- 2) By December 10, 2015, the parties would meet and confer to identify any remaining claimed overcharges and unauthorized charges.

The assigned Commissioner issued the Scoping Memo Ruling on November 18, 2015 and directed the parties, *inter alia*, to meet the following deadlines to move the proceeding forward:

EVENT	DATE
Last Day to Serve Data Requests	December 15, 2015
Complainant to Serve Prepared Testimony, Declarations, and/or Exhibits	January 15, 2016
Last Day to Request Evidentiary Hearing (party must identify all disputed facts and describe how hearing will improve CPUC review)	February 9, 2016
File and Serve Opening Brief (Complainant)	February 19, 2016

AT&T filed a Motion to Dismiss Complaint of Ross Stucker on January 7, 2016 (Motion). The Motion, supported by a declaration of AT&T's counsel, details Stucker's failure to meet the discovery and meet and confer

deadlines, as agreed upon during the PHC. Rule 11.1 (1)(e) of the Commission's Rules of Practice and Procedure (Rules) requires that a response to this Motion "be filed and served within 15 days of the date that the motion was served, except as otherwise provided in these Rules or unless the Administrative Law Judge sets a different date...." To date, Stucker has not filed a response to the Motion.

As reflected in this proceeding docket and detailed in the Motion, Stucker failed to comply with each of the agreed upon deadlines, failed to meet all other deadlines ordered in the Scoping Memo Ruling, and failed to respond to the Motion.

The uncontroverted evidence before the Commission demonstrates that Stucker has failed to prosecute and instead has abandoned this Complaint.

2. Assignment of Proceeding

Carla J. Peterman is the assigned Commissioner and Kimberly Kim is the assigned Administrative Law Judge in this proceeding.

3. Comments on Proposed Decision

The proposed decision in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments are allowed pursuant to Rule 14.3 of the Commission's Rules. No Comments were filed.

Findings of Fact

1. Stucker failed to comply with each of the agreed upon deadlines, failed to meet all other deadlines ordered in the Scoping Memo Ruling, and failed to respond to the Motion.

2. The uncontroverted evidence before the Commission demonstrates that Stucker has failed to prosecute and instead has abandoned this Complaint.

Conclusion of Law

1. The Commission should dismiss the Complaint for lack of prosecution.
2. This proceeding should be closed.

O R D E R

IT IS ORDERED that:

1. This Complaint is dismissed without prejudice.
2. Case 15-08-015 is closed.

This order is effective immediately.

Dated _____, 2016, at San Francisco, California.